

Honorable John C. Coughenour

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CONSERVATION NORTHWEST et al.,

Plaintiffs,

v.

HARRIS SHERMAN et al.,

Defendants,

and

D.R. JOHNSON LUMBER COMPANY,

Defendant-Intervenor.

CASE NO. C08-1067-JCC

**PARTIES' STIPULATION AND
[PROPOSED] ORDER**

1 Plaintiffs Conservation Northwest et al., and Defendants Harris Sherman et al., hereby
2 stipulate to and respectfully request that the Court order equitable relief as set forth in the Settlement
3 Agreement attached as Exhibit 1 hereto, and enter a judgment of dismissal with prejudice under
4 Federal Rule of Civil Procedure 41(a)(2) pursuant to the following provisions:

5 1. On July 11, 2008, Plaintiffs filed a complaint challenging the U.S. Forest Service and
6 Bureau of Land Management's (collectively, "the Agencies") 2007 Supplement to the 2004
7 Supplemental Environmental Impact Statement to Remove or Modify the Survey and Manage
8 Mitigation Measure Standards and Guidelines (the "2007 Supplement"), as well as the Records of
9 Decision to Remove or Modify the Survey and Manage Mitigation Measure Standards and
10 Guidelines from Forest Service Land and Resource Management Plans, and Bureau of Land
11 Management Resource Management Plans, within the Range of the Northern Spotted Owl (the
12 "2007 RODs"), issued by the U.S. Department of Agriculture and the U.S. Department of Interior.

13 2. On December 17, 2009, this Court issued an opinion and order (Dkt. No. 65) that
14 granted in part and denied in part Plaintiffs' motion for partial summary judgment on certain claims
15 under the National Environmental Policy Act ("NEPA"), and granted in part and denied in part
16 Federal Defendants' cross-motion for summary judgment regarding the 2007 Supplement and the
17 2007 RODs. This Court declined to issue a remedy at that time and directed the parties to confer as
18 to case management for remaining issues in this case.

19 3. Plaintiffs and Defendants have engaged in negotiations and agree upon provisions to
20 settle the remainder of this case. The Parties' agreement is set forth in the Settlement Agreement
21 that is attached as Exhibit 1 to this stipulation and order.

22 4. The provisions of the Settlement Agreement and its attachment are incorporated
23 herein by reference in this stipulation and order. The provisions of the Settlement Agreement shall
24 be effective upon entry of an Order of this Court granting equitable relief and dismissing the claims
25 pleaded in Plaintiffs' Complaint, or that could have been pleaded in Plaintiffs' Complaint, insofar as
26 they concerned the legality of the 2007 RODs and 2007 Supplement, with prejudice pursuant to
27 Federal Rule of Civil Procedure 41(a)(2).

28 5. Consistent with Sections VI.G through VI.J of the attached Settlement Agreement

1 and the processes set forth therein, this Court shall retain jurisdiction of this action to resolve
 2 disputes between the Parties that may arise in the future regarding the provisions of the Settlement
 3 Agreement, and to consider and rule on any motions to modify or vacate such provisions. *See*
 4 *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375 (1994).
 5

6 6. The provisions stipulated to by the parties and ordered by the court in *Northwest*
 7 *Ecosystem Alliance v. Rey*, No. 04-844-MJP (W.D. Wash. Oct. 11, 2006), shall remain in force.
 8 Other than the provisions in Sections I.C and III of the Settlement Agreement that reference the
 9 exemptions stipulated to by the parties and ordered by the court in *Northwest Ecosystem Alliance v.*
 10 *Rey*, No. 04-844-MJP (W.D. Wash. Oct. 11, 2006), no other terms or conditions in the attached
 11 Settlement Agreement apply to, or modify in any way, those exemptions.
 12

13 7. The Court's Order granting equitable relief shall remain in effect unless and until the
 14 Agencies conduct further analysis and decision making pursuant to NEPA and issue a Record of
 15 Decision to supersede the Survey and Manage Mitigation Measure Standards and Guidelines.
 16

17 Dated: March 4, 2011.

Respectfully submitted,

18 /s/ Peter M.K. Frost
 19 Peter M.K. Frost, *pro hac vice*
 20 Attorney for Plaintiffs

21 /s/ Beverly Li
 22 Beverly Li
 23 Attorney for Defendants
 24

25 Pursuant to the stipulation of the parties, IT IS SO ORDERED.
 26

27 Date: March __, 2011.

28 John C. Coughenour
 UNITED STATES DISTRICT JUDGE